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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JUAN ALCARAZ,

Petitioner,

v.

BRIAN WILLIAMS, *et al.*,

Respondents.

Case No. 2:13-cv-00818-JCM-BNW

ORDER

On May 14, 2019, the court entered an order granting the petitioner's motion to stay pursuant to the three-step procedure of *Kelly v. Small*, 315 F.3d 1063 (9th Cir. 2003). The court indicated that once petitioner amended his petition to delete his unexhausted claim – Claim 2 – it would enter an order formally staying the action. Petitioner has filed a second amended petition deleting Claim 2. The court has not yet entered its order formally staying this action.

On June 17, 2019, petitioner indicated that he no longer wants to stay this action to exhaust Claim 2. Petitioner therefore seeks dismissal of Claim 2 and asks that this action proceed as to his other surviving claims.

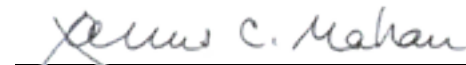
As petitioner no longer wishes to pursue exhaustion of Claim 2 and instead wishes to dismiss that unexhausted claim, IT IS HEREBY ORDERED that petitioner's motion to dismiss Claim 2 (ECF No. 68) is granted. Claim 2 is therefore DISMISSED WITHOUT PREJUDICE.

1 IT IS FURTHER ORDERED that the court's order of May 14, 2019, is VACATED
2 to the extent it grants petitioner a motion to stay pursuant to *Kelly v. Small*, 315 F.3d 1063
3 (9th Cir. 2003).

4 IT IS FURTHER ORDERED that respondents will have sixty days from the date of
5 entry of this order to file an answer to the second amended petition. Petitioner will have
6 thirty days from service of the answer within which to file a reply.

7 It is so ordered.

8 DATED June 20, 2019.

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11 JAMES C. MAHAN
12 UNITED STATES DISTRICT JUDGE
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